

Drafted by:
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FIRST SUPPLEMENTAL GROUND LEASE AGREEMENT

between

BROOKINGS COUNTY, SOUTH DAKOTA

as lessor

and

FIRST BANK & TRUST, BROOKINGS, SOUTH DAKOTA

in its capacity as Trustee under the Declaration
of Trust described herein,
as lessee

Dated as of November 1, 2020

THIS FIRST SUPPLEMENTALGROUND LEASE AGREEMENT, made as of this 1st day of November 2020, by and between BROOKINGS COUNTY, SOUTH DAKOTA, a political subdivision of the State of South Dakota (the "County"), as lessor, whose address is 314 6th Avenue, Brookings, SD 57006 and First Bank & Trust, a bank organized under the laws of the South Dakota (the "Trustee"), whose address is 520 6th Street, PO Box 5057, Brookings, SD 57006-5057, as lessee, in its capacity as trustee under that certain Declaration of Trust, of even date herewith, by the Trustee and joined in by the County, supplements the Ground Lease Agreement dated July 18th, 2020 between the parties.

WITNESSETH

In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

DEMISE OF LAND AND WARRANTIES

Section 1.01. Demise. Subject to and upon the terms, conditions, covenants and undertakings hereinafter set forth, the County hereby leases and permits the use to, and the Trustee hereby leases from the County, the property described in Exhibit A attached hereto, located in Brookings County, South Dakota including all buildings, structures and improvements thereon (hereinafter called the "Land").

Section 1.02. Warranties. The County covenants and warrants to the Trustee:

- (1) That the County has good and merchantable title to the Land, has authority to enter into, execute and deliver this Lease, and has duly authorized the execution and delivery of this Lease,
- (2) That the Land is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the renovation, construction and equipping of certain buildings and other improvements (hereinafter called the "Facilities") on the Land, as contemplated by that certain Lease-Purchase Agreement by and between the County and the Trustee of even date herewith (hereinafter called the "Agreement");
- (3) That all taxes, assessments or impositions of any kind with respect to the Land, except current taxes, have been paid in full;
- (4) That the Land are properly zoned for the purpose of the Facilities; and
- (5) That the County has authority to enter into, execute and deliver the Agreement, and has duly authorized its execution and delivery.

ARTICLE II

TERM AND RENT

Section 2.01. Term. The term of this Lease shall commence as of July 18, 2012 and ending on December 1, 2037 (with automatic 10 year extensions) in the event that the Certificates of Participation, Series 2012 or Certificates of Participation, Series 2020 are not paid in full on or before December 1, 2037.

Section 2.02. Rent. The rent for the period from July 18, 2012 to and including June 1, 2032 shall be One Cent (\$.01) receipt of which is hereby acknowledged. The rent for the extended term, if any, shall be One Cent (\$.01) payable in one installment in advance receipt of which is hereby acknowledged.

ARTICLE III

USE OF LAND ADDITIONAL COVENANTS

Section 3.01. Use. The Trustee shall not use or permit the use of the Land for any unlawful purpose.

Section 3.02. Quiet Enjoyment. The County covenants that upon the Trustee's paying the rent reserved herein, and performing all conditions and covenants set forth in this Lease. and the Agreement, the Trustee shall and may peaceably have, hold and enjoy the Land for the term of this Lease. The Trustee covenants that upon expiration of this Lease, either on the date specified in Section 2.01 hereof or earlier pursuant to the terms of the Agreement, it shall give the County peaceable possession of the Land, together with the Facilities and any other improvements constructed thereon pursuant to the Agreement.

Section 3.03 . Assignment and Subletting. The Trustee shall have the right to assign its interest in this Lease, and to sublet the Land in accordance with the Agreement.

Section 3.04. Environmental Matters. The County represents and warrants that it has no knowledge of the presence of hazardous or toxic waste, materials or substances ("Hazardous Materials") within the meaning of any federal, state or local law or regulation relating to environmental matters, on or about the Land. The County further agrees that it will indemnify, defend and hold harmless the Trustee, its directors, officers, employees and agents, and any assignee of the Trustee, without payment being made by the Trustee, from and against any and all claims, demands, suits, liabilities and costs (including without limitation, attorneys' fees, and costs and expenses of investigation and proof) arising out of any violation or asserted violation of any environmental law or regulation or out of the presence on the Land of any Hazardous Materials.

Section 3.05. Additional Covenants. In the event that any person or entity, however organized (other than the Trustee or any assignee of the Trustee), shall be determined to hold any interest that in any manner affects the County's good and merchantable title to the Land, the County shall use its best efforts to acquire the interest so held, such acquisition to be made at the County's sole cost and expense. The County hereby agrees to save and keep harmless the Trustee, or any assignee of the Trustee, from and against any

and all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees) of whatever kind and nature, imposed on, incurred by or asserted against the Trustee, or any assignee of the Trustee, that in any way relate to or arise out of the assertion of any interest affecting the County's good and merchantable title to the Land by any person or entity, however organized (other than the Trustee or any assignee of the Trustee).

ARTICLE IV

DEFAULT: REMEDIES

Section 4.01. Default. A "default" or an "event of default" shall have occurred if the Trustee shall fail to observe or perform any of the obligations of the Trustee otherwise provided herein.

Section 4.02. Lessor's Remedies. Upon the occurrence of an event of default by the Trustee hereunder, which shall remain uncured for thirty (30) days after receipt by the Trustee of written notice of such event of default and after the County has obtained written consent of the Insurer, the County may thereafter or any time subsequently during the existence of such breach or default; (1) enter into and upon the Land and repossess the same, expelling and removing therefrom all persons and property, and (ii) terminate this Lease, holding the Trustee liable for damages for its breach, including reasonable attorneys fees and costs.

ARTICLE V

BINDING EFFECT: SUCCESSORS AND ASSIGNS

Section 5.01. Binding Effect. This Lease shall be binding upon, and inure to the benefit of, the Trustee, and the County, and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed Lease as of the date first above written.

**BROOKINGS COUNTY,
SOUTH DAKOTA**

By: _____
Its: Chairman

(SEAL)

ATTEST:

Finance Officer

STATE OF SOUTH DAKOTA }
 :SS
COUNTY OF BROOKINGS }

On this 1st day of November 2020, before me, a notary public personally appeared _____ and Vicki Buseth, to me personally known to be the Chairman and Finance Officer of Brookings County, a municipality of the State of South Dakota, the County Officials referred to in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said political subdivision; that said instrument was signed and sealed in behalf of the County having been authorized by the governing board of the County; and said Chairman and Finance Officer acknowledged said instrument to be the free act and deed of said County.

Notary Public-South Dakota
My Commission Expires:

COUNTERSIGNED

Resident Attorney

FIRST BANK & TRUST

By: _____
Its: Vice President

STATE OF SOUTH DAKOTA }
:SS
COUNTY OF BROOKINGS }

On this _____ day of July 2012, before me, a Notary Public, personally appeared Steve Hogie, to me personally known, who, being duly sworn, did say that he is Vice President of First Bank & Trust the association referred to in the foregoing instrument; that said instrument was signed and sealed in behalf of said association by authority of its Board of Directors; and he acknowledged said instrument to be the free act and deed of said association.

Notary Public-South Dakota
My Commission Expires:

EXHIBIT A
Legal Description

Block 9 of the Second Addition to the City of Brookings, Brookings County, South Dakota according to the recorded plat thereof.